

REMARKS

Upon entry of the Amendment, Claims 8, 10, 12, 58, 59, 62, 63 and 92-104 are pending. Claims 1-7, 13-57 and 64-91 have been withdrawn. Claims 8, 10 and 12 have been amended and new claims 92-104 have been added. Claims 9, 11, 60, 61, 90 and 91 have been canceled.

Restriction Requirement

The Examiner has restricted the Claims to the following Claim Groups.

Claim Group I: Claims 1-3, 13-56 and 64-91

Claim Group II: Claims 4-7

Claim Group III: Claims 8-12 and 57-63

Claim Group IV: Claim 57

In response to the restriction requirement, the Applicant provisionally elected Claim Group III without traverse during a telephone conference on August 13, 2009. The Applicant hereby affirms the election of Claim Group III without traverse and is hereby withdrawing the non-elected claims. However, while preparing this response, the Applicant notes that claims 90 and 91 are dependent upon Claim 8 and relate to a litter tray and therefore should have been included in Claim Group III. The Applicant thus respectfully requests that the Examiner include claims 90 and 91 in Claim Group III. Notwithstanding, these claims 90 and 91 are being canceled.

Claim Rejections- 35 USC §103

Claims 8-12 and 58-63 have been rejected under 35 USC §103 (a) as being unpatentable over Thaler US Patent No. 6,378,461 ("the Thaler et al patent") in view of Kerr US Patent No. 4,193,624 ("the Kerr patent"). It is respectfully submitted that neither the Thaler et al patent nor the Kerr patent disclose or suggest, either singly or in

combination a litter tray as recited in the claims, as amended. In particular, neither patent discloses or suggests a single non-compartmentalized tray for use as a replaceable tray in a litter box with a moveable rake. The tray recited in the claims at issue offers several advantages over the trays taught by the Thaler et al and the Kerr patents. First, the configuration of the single compartment greatly simplifies the mechanical design of the kitty litter machine with a moveable rake in which the tray is to be used. In particular, the tray in accordance with the present invention allows the rake assembly to deliver waste into a "waste section" without the need to raise the rake, thereby simplifying the mechanical design of the kitty litter machine in which it is to be used. Second, the tray in accordance with the present invention enables the cat waste to remain in contact with the litter. The litter will deodorize the waste and soak up any liquid from the waste.

The Thaler et al patent relates to a self cleaning litter box with two (2) separate removable trays; namely a removable litter tray and a removable waste container. The litter tray is identified with the reference numeral 300 and is best illustrated in Fig. 18 of the '461 patent. A separate waste container or compartment 68 with a hinged lid 69 is also disclosed, as best shown in Figs. 1 and 3 of the '461 patent. Both the litter tray 300 and the waste compartment 68 are separate compartments. The removable litter tray 300 is removed from an end of the self cleaning litter box opposite the waste compartment 68.

Figs. 1-3 of the Thaler et al patent illustrate the complexity of the mechanical design required by the trays disclosed therein. In particular, the tray configuration requires that the rake assembly climb up the ramps 34 and 35 and back down again in order to rake the litter into the waste compartment. Moreover, the waste compartment does not contain any litter other than litter that adheres to the waste and gets pushed in with the waste. Thus the waste is not deodorized and since the waste compartment

does not contain litter, the wet waste will remain wet for some time further adding to the odor of the waste.

The Kerr patent has nothing to do with litter trays for use with litter machines that have a moveable rake. Rather, the device disclosed in the Kerr patent is used for catching animal waste from an animal as the waste is being discharged from an animal. Notwithstanding, the device disclosed in the Kerr patent discloses a compartmentalized tray, as best illustrated in Fig. 3. The Kerr patent recognizes the issue of odor associated with animal waste by providing a deodorant compartment 34 adjacent to the waste compartment 32. The deodorant compartment 34 is separated from the waste compartment by a barrier or partition 30. It is unclear from the Kerr patent how the waste is deodorized by a deodorant material in another compartment but nonetheless teaches indirect odor control of the waste.

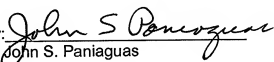
The tray recited in the claims at issue is an improvement over the tray disclosed in the Kerr patent by providing direct odor control. In particular, the tray recited in the claims at issue is configured to enable the waste to be mixed with litter. Not only does such a configuration provide direct odor control but additionally soaks up liquid in the waste further improving the odor control.

Conclusion

None of the trays disclosed or suggested by the references disclose or suggest a single non-compartmentalized tray for carrying the litter and the waste that is configured for use with a litter machine with a moveable rake. Moreover, neither patent even addresses the issue of dehydrating liquid from the waste by mixing the waste with litter to improve odor control nor providing direct or contact odor control as the tray recited in the claims at issue. For all of the above reasons, the Examiner is respectfully requested to provide favorable consideration of the pending claims.

The Applicant would like to thank Examiner Benedik for the telephonic conferences on August 12 and 13, 2009 and would like to encourage the Examiner to continue to contact the undersigned telephonically.

Respectfully submitted,

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